

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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THOMAS A. CENSKE,

Plaintiff,

v.

UNITED STATES DEPARTMENT  
OF JUSTICE, et al.,

Defendants.

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Case No. 1:04-CV-804

Hon. Richard Alan Enslen

**ORDER**

Plaintiff Thomas Censke has filed a one-page document titled “Rule 60(b) New Evidence Motion.” (Dkt. No. 14.) He has done so while he has pending an appeal before the Sixth Circuit Court of Appeals regarding the underlying Judgment which is the basis for the “Rule 60(b) New Evidence Motion.” (*See* Dkt. No. 13, Order reinstating appeal.) Given the pendency of the appeal, the Court reads the Rule 60(b) Motion as a motion for the relief described in *First Nat’l Bank of Salem, Ohio v. Hirsch*, 535 F.2d 343, 346 (6th Cir. 1976), a certification of the intent to grant Rule 60 relief upon remand. So read, the Motion will be denied. The Motion does not contain a satisfactory description of “new evidence,” nor is any explanation given as to why the “new evidence” was not provided in a timely manner. *See* Fed. R. Civ. P. 60(b)(2); *Good v. Ohio Edison Co.*, 149 F.3d 413, 423 (6th Cir. 1998).

**THEREFORE, IT IS HEREBY ORDERED** that Plaintiff Thomas A. Censke’s Rule 60(b) New Evidence Motion (Dkt. No. 14) is **DENIED**.

Dated in Kalamazoo, MI:  
October 30, 2006

/s/Richard Alan Enslen  
Richard Alan Enslen  
Senior United States District Judge

